

9-8-06 Revision of Maine Attachment 4

Survey of State E-911 Surcharges Collected on Pre-Paid Wireless Service

ALABAMA

Alabama's legislation requires the E-911 surcharge to be collected on each and every 'connection', which includes prepaid service.

Relevant Statutes: 11-98-7(b)(1)

<http://alisd.b.legislature.state.al.us/acas/codeofalabama/1975/11%2D98%2D7.htm>

"(1) To levy a CMRS emergency telephone service charge on each CMRS connection that has a principal wireless service address (or billing address, if the principal wireless service address is not known) within the state. The rate of such CMRS service charge shall be seventy cents (\$.70) per month per CMRS connection beginning on May 1, 1998, which amount shall not be increased except by the Legislature. The CMRS service charge shall have uniform application and shall be imposed throughout the state. The board is authorized to receive all revenues derived from the CMRS service charge levied on CMRS connections in the state and collected pursuant to Section 11-98-8."

ALASKA

Alaska currently has a law pending in its legislature amending its statutes to include specific prepaid wireless language. The law was last referred to the State Senate Committee on Finance in May of 2004.

Relevant Legislation: HB 461

"...* Sec. 7. AS 29.35.131 is amended by adding new subsections to read:

(i) A municipality may by ordinance elect to impose a point-of-purchase 911 surcharge from prepaid wireless telephone accounts not to exceed one percent of the purchase value. The surcharge must apply to initial purchases and to subsequent purchases of airtime. The retailer of the wireless account is responsible for remitting the surcharge to the municipality..."

Relevant Statute: Title 29 Sec. 29.35.131.

<http://www.dced.state.ak.us/dca/pub/2004Title29.pdf>

"...(b) A wireless telephone company that provides telephone service to wireless telephone customers with billing addresses within the enhanced 911 service area shall impose an enhanced 911 surcharge each month and collect the surcharge from customers in the enhanced 911 service area. A local exchange telephone customer may not be subject to more than one enhanced 911 surcharge on a local exchange access line for a wireline telephone. A wireless telephone customer may not be subject to more than one enhanced 911 surcharge for each wireless telephone number. A customer that has more than 100 local exchange access lines from a local exchange telephone company in the municipality is liable for the enhanced 911 surcharge only on 100 local exchange access lines..."

ARIZONA

Relevant Statutes: 42-5252(A)

<http://www.azleg.state.az.us/legtext/45leg/1r/bills/hb2542s.htm>

1. For the fiscal years beginning from and after June 30, 2001 and ending before July 1, 2006, thirty-seven cents per month for each activated wire and wireless service account for the purpose of financing emergency telecommunication services.
2. For the fiscal years beginning from and after June 30, 2006 and ending before July 1, 2007, twenty-eight cents per month for each activated wire and wireless service account for the purpose of financing emergency telecommunication services.
3. For the fiscal years beginning from and after June 30, 2007, twenty cents per month for each activated wire and wireless service account for the purpose of financing emergency telecommunication services.

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4. One and one-tenth per cent of the provider's gross proceeds of sales or gross income derived from the business of providing exchange access services for the purpose of financing telecommunication devices for the deaf and the severely hearing and

speech impaired under the program established pursuant to section 36-1947.

ARKANSAS

Arkansas does not have statutory language specifically addressing the prepaid issue. However, prepaid companies are remitting the surcharge to the state authorities.

CALIFORNIA

California tax code is defined broadly to include an E-911 surcharge tax levied on all customers that access intrastate telephone communication service. California reports no issues with compliance by prepaid providers.

Relevant Statutes: California Tax & Revenue Code: 41020-41027

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=41001-42000&file=41020-41027>

41020. (a) A surcharge is hereby imposed on amounts paid by every person in the state for intrastate telephone communication service in this state commencing on July 1, 1977.

(b) The surcharge imposed shall be at the rate of one-half of 1 percent of the charges made for such services to and including November 1, 1982, and thereafter at a rate fixed pursuant to Article 2 (commencing with Section 41030).

COLORADO

Colorado does not have prepaid wireless legislation.

Relevant Statutes: Title 29, Article 11

<http://198.187.128.12/colorado/lpext.dll?f=templates&fn=fs-main.htm&2.0>

29-11-102 (2) (a) The governing body is hereby authorized, by ordinance in the case of cities and by resolution in the case of counties or special districts, to impose such charge in an amount not to exceed seventy cents per month per exchange access facility or per wireless communications access in those portions of the governing body's jurisdiction for which emergency telephone service will be provided... (c) Regardless of the level at which the charge is set, the amount of the charge imposed per exchange access facility and the amount of the charge imposed per wireless communications access shall be equal.

29-11-103. (1) Any charge imposed under the authority of this article and the amounts required to be collected are to be remitted monthly. The amount of the charge collected in one month by the service supplier shall be remitted to the governing body no later than thirty days after the close of that month. On or before the sixtieth day of each calendar quarter, a return for the preceding quarter shall be filed with the governing body in such form as the governing body and service supplier shall agree upon. The service supplier required to file the return shall deliver the return, together with a remittance of the amount of the charge payable, to the office of the governing body. The service supplier shall maintain a record of the amount of each charge collected pursuant to this article. Such record shall be maintained for a period of one year after the time the charge was collected.

CONNECTICUT

Connecticut does not currently have legislation for collecting from prepaid providers. The Office of Statewide Emergency Telecommunications is hoping for the issue to be addressed in the 2007 legislative session.

Relevant Statutes: Chapter 518a, Chapter 283: Sec. 16-256g

<http://www.cga.ct.gov/2005/pub/Chap518a.htm#Sec28-24.htm>

<http://www.cga.ct.gov/2005/pub/Chap283.htm#Sec16-256g.htm>

Sec. 28-30a. Enhanced 9-1-1 Telecommunications Fund. (a) There is established a fund to be known as the "Enhanced 9-1-1 Telecommunications Fund". The fund shall contain any moneys required by law to be deposited in the fund, including, but not limited to, any federal funds collected pursuant to subsection (d) of section 28-24 and fees assessed against subscribers of local telephone service and subscribers of commercial mobile radio services, pursuant to section 16-256g. The Enhanced 9-1-1 Telecommunications Fund shall be held separate and apart from all other moneys, funds and accounts. Interest derived from the investment of the fund shall be credited to the assets of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the fiscal year next succeeding.

Sec. 16-256g. Proceeding to determine monthly subscriber fee. Assessment of subscribers for Enhanced 9-1-1 Telecommunications Fund. (a) By June first of each year, the Department of Public Utility Control shall conduct a proceeding to determine the amount of the monthly fee to be assessed against each subscriber of local telephone service and each subscriber of commercial mobile radio service, as defined in 47 CFR Section 20.3, to fund the development and administration of the enhanced emergency 9-1-1 program. The department shall base such fee on the findings of the Commissioner of Public Safety, pursuant to subsection (c) of section 28-24, taking into consideration any existing moneys available in the Enhanced 9-1-1 Telecommunications Fund. The department shall consider the progressive wire line inclusion schedule contained in the final report of the task force to study enhanced 9-1-1 telecommunications services established by public act 95-318*. The department shall not approve any fee greater than fifty cents per month per access line nor shall it approve any fee that does not include the progressive wire line inclusion schedule.

(b) Each telephone or telecommunications company providing local telephone service and each provider of commercial mobile radio service shall assess against each subscriber, the fee established by the department pursuant to subsection (a) of this section, which shall be deposited in the Enhanced 9-1-1 Telecommunications Fund.

DELAWARE

It is of the opinion of the Delaware AG's office that all prepaid wireless providers are **exempt** from Delaware's E-911 surcharge legislation. Delaware's law specifies that the wireless provider shall collect from wireless customers for each number "for which they are billed" by such provider. There is no provision for non-billed wireless services.

Relevant Statutes: Title 16, Part 12, Chapter 101

<http://www.delcode.state.de.us/title16/c101/index.htm>

§ 10103. E-911 Emergency Reporting System Fund.

"(a) The Fund shall be funded by means of a monthly surcharge of up to 60 cents per month imposed by providers on subscribers of telecommunications services in this State as follows.

(1) Residential telephone service. -- The surcharge shall be imposed by each provider providing such service on all Delaware residential subscribers per residence exchange access line or per Basic Rate Interface ("BRI") ISDN arrangement, where the residence exchange access service is provided via a BRI ISDN arrangement. The surcharge shall not be applied to residence exchange access lines provided to Lifeline subscribers.

(2) Business telephone service. -- The surcharge shall be imposed by each provider providing such service on all Delaware business subscribers per business exchange access line and trunk or per BRI ISDN arrangement where the business exchange access service is provided via a BRI ISDN arrangement. Each Centrex access line shall be charged the equivalent of 1/9 of the surcharge; provided, however, that where a Centrex customer has fewer than 9 lines, the maximum monthly charge for those lines will be the surcharge imposed on each business exchange access line or trunk divided by the customer's Centrex lines. Each Primary Rate Interface ISDN system shall be charged a rate equal to 5 times the surcharge. The surcharge shall not be applied to lines provided under wholesale arrangements.

(3) Wireless service. -- The surcharge shall be imposed by each wireless provider on all wireless service customers for each wireless telephone number for which they are billed by such provider."

FLORIDA

Florida does currently have legislation to collect from prepaid wireless providers. The collection is based on the number of customers. TracFone has expressed concern over the legislation because it does not allow for collection based on the way that they conduct business. At the August 2006, Wireless 911 Board meeting an agreement was reached with TracFone resolving the dispute in past collections and receipts. The current remittance will be based on the following model: *The prepaid provider shall divide the total earned revenue received by the prepaid provider within the monthly 911 reporting period by fifty dollars and multiplying the quotient by the monthly service fee of 50 cents.* Changes to the prepaid language in the statutes are being recommended to clarify prepaid collection methods.

Relevant Statutes: 365.172(8)(a) & (9)(b)

http://www.flsenate.gov/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0365/SEC172.HTM&Title=->2001->Ch0365->Section%20172

(8)(a) Each home service provider shall collect a monthly fee imposed on each customer whose place of primary use is within this state. For purposes of this section, the state and local governments are not customers. The rate of the fee shall be 50 cents per month per each service number, beginning August 1, 1999. The fee shall apply uniformly and be imposed throughout the state.

(9)(b) In the case of prepaid wireless telephone service, the monthly wireless 911 surcharge imposed by subsection (8) shall be remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that has a sufficient positive balance as of the last day of each month. The surcharge shall be remitted in any manner consistent with the wireless provider's existing operating or technological abilities, such as customer address, location associated with the MTN, or reasonable allocation method based upon other comparable relevant data. The surcharge amount or an equivalent number of minutes may be reduced from the prepaid subscriber's account since a direct billing may not be possible. However, collection of the wireless 911 surcharge in the manner of a reduction of value or minutes from the prepaid subscriber's account does not constitute a reduction in the sales price for purposes of taxes that are collected at the point of sale.

GEORGIA

Georgia does not collect from prepaid providers. They are seeking to implement some form of legislation to do so in the 2006 legislative session. In the 2005 session, some legislators introduced a bill to collect from prepaid providers, but the measure failed after strong opposition from providers.

Relevant Statutes: 46-5-133

http://www.legis.state.ga.us/cgi-bin/gl_codes_detail.pl?code=46-5-133

(a) Subject to the provisions of subsection (b) of this Code section, the governing authority of any local government which operates or which contracts for the operation of an emergency '911' system is authorized to adopt a resolution to impose a monthly '911' charge upon each exchange access facility subscribed to by telephone subscribers whose exchange access lines are in the areas served or which would be served by the '911' service. Subject to the provisions of subsection (b) of this Code section and of subparagraphs (a)(2)(A) and (a)(2)(B) of Code Section 46-5-134, the governing authority of any local government which operates or contracts for the operation of an emergency '911' system which is capable of providing or provides enhanced '911' service to persons or entities with a wireless telecommunications connection, excluding a military base, is authorized to adopt a resolution to impose a monthly wireless enhanced '911' charge upon each wireless telecommunications connection subscribed to by telephone subscribers whose billing address is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency '911' system. Such resolution, or any amendment to such resolution, shall fix a date on which such resolution and the imposition and collection of the '911' charge or wireless enhanced '911' charge, as provided in the resolution, shall become effective; provided, however, that such effective date shall be at least 120 days following the date of the adoption of such resolution or any amendment to such resolution by the local government. The '911' charge must be uniform, may not vary according to the type of exchange access facility used, and may be billed on a monthly or quarterly basis. The wireless enhanced '911' charge must be uniform, not vary according to the type of wireless telecommunications connection used, and may be billed on a monthly or quarterly basis.

HAWAII

Hawaii passed legislation effective on July 1, 2004 that **exempts** all prepaid providers from E-911 surcharge collection.

Relevant Statutes: HB 2883, Section 4(b)(2)

http://www.capitol.hawaii.gov/hrscurrent/vol03_ch0121-0200d/hrs0138/hrs_0138-0004.htm

(a) "A monthly wireless enhanced 911 surcharge, subject to this chapter, shall be imposed upon each commercial mobile radio service connection.

(b) (b) The effective date of the surcharge shall be July 1, 2004. The rate of the surcharge shall be set at 66 cents per month for each commercial mobile radio service connection. The surcharge shall have uniform

application and shall be imposed on each commercial mobile radio service connection operating within the State except:

- (1) Connections billed to federal, state, and county government entities; and
- (2) Prepaid connections."

IDAHO

Idaho does not currently collect an E-911 surcharge from prepaid providers. They may examine the issue in the near future.

Relevant Statutes: Title 31, Chapter 48

<http://www3.state.id.us/idstat/TOC/31048KTOC.html>

"31-4804. EMERGENCY COMMUNICATIONS FEE. (1) The emergency communications fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar (\$1.00) per month per access line, and such fee shall be used exclusively to finance the initiation, maintenance, operation, - 5 -

enhancement and governance of a consolidated emergency communications system and provide for the reimbursement of telecommunications providers for implementing enhanced consolidated emergency systems as provided for in section 31-4804A, Idaho Code. All emergency communications fees collected and expended pursuant to this section shall be audited by an independent, third party auditor ordinarily retained by the governing board for auditing purposes. The purpose of the audit as related to emergency communications systems is to verify the accuracy and completeness of fees collected and costs expended.

(2) The fee shall be collected from customers on a monthly basis by all telecommunications providers that make available access lines to persons within the county, or 911 service area, and may be listed as a separate item on customers' monthly bills."

ILLINOIS

Illinois has legislation and collects the E-911 surcharge "based upon the address associated with the point of purchase, the customer billing address, or the location associated with the MTN for each active prepaid wireless telephone that has a sufficient positive balance as of the last day of each month, if that information is available."

Relevant Statutes: 50 ILCS 751/17

"(a) Except as provided in Section 45, each wireless carrier shall impose a monthly wireless carrier surcharge per CMRS connection that either has a telephone number within an area code assigned to Illinois by the North American Numbering Plan Administrator or has a billing address in this State. In the case of prepaid wireless telephone service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the MTN for each active prepaid wireless telephone that has a sufficient positive balance as of the last day of each month, if that information is available. No wireless carrier shall impose the surcharge authorized by this Section upon any subscriber who is subject to the surcharge imposed by a unit of local government pursuant to Section 45. The wireless carrier that provides wireless service to the subscriber shall collect the surcharge set by the Wireless Enhanced 9-1-1 Board from the subscriber. For mobile telecommunications services provided on and after August 1, 2002, any surcharge imposed under this Act shall be imposed based upon the municipality or county that encompasses the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. The surcharge shall be stated as a separate item on the subscriber's monthly bill. The wireless carrier shall begin collecting the surcharge on bills issued within 90 days after the Wireless Enhanced 9-1-1 Board sets the monthly wireless surcharge. State and local taxes shall not apply to the wireless carrier surcharge. "

INDIANA

Indiana reports that most companies have been complying with its current statutes. Indiana has seen a growth in subscribers to prepaid service as well as a growth in dollars remitted as part of their surcharge collection.

Relevant Statutes: IC 36-8-16.5

<http://www.in.gov/legislative/ic/code/title36/ar8/ch16.5.html>

"Sec. 14.5. As used in this chapter, "prepaid subscriber" refers to a CMRS subscriber who pays in full prospectively for the service and is issued an Indiana telephone number or an Indiana identification number for the service...

...Sec. 30.5. (a) As used in this section, "customer" and "place of primary use" have the meanings set forth in IC 6-8.1-15.

(b) Except as provided in section 34 of this chapter, each CMRS provider shall collect the wireless emergency enhanced 911 fee assessed under section 25.5 of this chapter as follows:

(1) As part of its normal monthly billing process, a CMRS provider shall collect the fee from each standard subscriber that is a customer having a place of primary use in Indiana and may list the fee as a separate line item on each bill. A customer's place of primary use shall be determined in the manner provided by IC 6-8.1-15. If a CMRS provider receives a partial payment for a monthly bill from a CMRS standard subscriber, the CMRS provider shall apply the payment against the amount the CMRS standard subscriber owes to the CMRS provider before applying the payment against the fee.

(2) A CMRS provider shall collect and remit to the board under section 36 of this chapter fees from its prepaid subscribers in a total amount equal to the fee amount multiplied by the number of active prepaid subscriber accounts on the last day of each calendar month."

IOWA

Iowa adopted the Tennessee model for its legislation to collect from prepaid wireless providers.

Relevant Statutes: - Chapter 605-10.8(5)

http://www4.legis.state.ia.us/IAChhtml/605.htm#rule_605_10_8

"The wireless service provider shall list the surcharge as a separate line item on the customer's billing indicating that the surcharge is for E911 emergency telephone service. In the case of prepaid wireless service, this surcharge shall be collected under one of two methods:

- a) The wireless service provider shall collect, on a monthly basis, the surcharge from each active prepaid customer whose account balance is equal to or greater than the surcharge; or
- b) The wireless service provider shall divide the total earned prepaid wireless telephone revenue received by the wireless provider within the calendar month and divide by 50 dollars, and multiply the quotient by the surcharge.

KANSAS

Kansas collects an E-911 surcharge fee from prepaid wireless providers by collecting from the wholesaler of the prepaid service a 1% grant fee of the retail price of **any** prepaid wireless service sold. It then exempts the prepaid providers from the standard 25-cent per month per subscriber fee placed on all other wireless providers.

Relevant Statutes: House Substitute for Senate Bill 153 amended K.S.A. 12-5302

New Sec. 4. (a) Subject to the provisions of section 18, and amendments thereto, effective July 1, 2004, there is hereby established a wireless enhanced 911 grant fee in the amount of \$.25 per month per wireless subscriber account with primary place of use in the state of Kansas. It shall be the duty of each wireless carrier to collect such fee from the wireless service user and remit such fee to the secretary as provided by section 11, and amendments thereto.

(b) Subject to the provisions of section 18, and amendments thereto, there is hereby established a wireless enhanced 911 grant fee in an amount equal to 1% of the retail price of any prepaid wireless service sold in the state. It shall be the duty of each wholesaler of prepaid wireless service to remit such fee to the secretary as provided by section 11, and amendments thereto.

(c) The secretary shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, any fees received pursuant to this section. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the wireless enhanced 911 grant fund.

New Sec. 10. (a) Effective July 1, 2004, there is hereby imposed a wireless enhanced 911 local fee. Subject to the provisions of section 18, and amendments thereto, the amount of such fee shall be \$.25 per month per wireless subscriber account with primary place of use in the state of Kansas. Such fee shall not be imposed on prepaid wireless service.

KENTUCKY

During the 2006 legislative session, legislation was introduced (HB656) changed the CMRS collection to include prepaid. In addition to active account and monthly revenues methods, the legislation allows for rule promulgation by the 9-1-1 for alternative methods of collection.

Relevant Statute:

<http://www.lrc.ky.gov/RECORD/06RS/HB656.htm>
KRS 65.7635

..... For CMRS customers who purchase CMRS services on a prepaid basis, the CMRS service charge shall be determined according to one (1) of the following methodologies as elected by the CMRS provider:

(a) The CMRS provider shall collect, on a monthly basis, the CMRS service charge specified in KRS 65.7629(3) from each active customer whose account balance is equal to or greater than the amount of service charge; or
(b) The CMRS provider shall divide its total earned prepaid wireless telephone revenue received with respect to its prepaid customers in the Commonwealth within the monthly 911 emergency telephone service reporting period by fifty dollars (\$50), multiply the quotient by the service charge amount, and pay the resulting amount to the board; or

(c) In the case of CMRS providers that do not have the ability to access or debit end user accounts, and do not have retail contact with the end user or purchaser of pre-paid wireless airtime, the CMRS service charge and collection methodology may be determined by administrative regulations promulgated by the board to collect the service charge from such end users.

(3) To collect the CMRS service charge from each CMRS connection:

(a) With a place of primary use, as defined in 4 U.S.C. sec. 124, within the Commonwealth;
or

(b) To which a Kentucky telephone number or Kentucky identification number has been assigned for the service.

LOUISIANA

Legislators had proposed amending Louisiana's Statutes to include prepaid wireless companies. But the measure was amended and those sections were not included in the final bill.

Relevant Statutes: R.S. 33:9109

<http://www.legis.state.la.us/>

"C. Service charge. The governing authority of any district may levy a CMRS emergency telephone service charge subject to and in accordance with the provisions of this Subsection. Such service charge:

(1) Shall be levied only on CMRS service which enables a service user to access the 911 emergency telephone number through the use of a CMRS connection.

(2) Shall not exceed eighty-five cents per month per wireless CMRS connection or the rate which the district levies or is authorized to levy on CMRS users on July 9, 1999, whichever is higher...

...(4) Shall be levied against each CMRS connection for which the billing address is within the district. In the absence of a billing address, the service charge shall be levied against each CMRS connection for which the primary use is within the district. Notwithstanding the foregoing, the application of a CMRS emergency telephone service charge to any mobile telecommunications service, as defined in R.S. 47:301(14)(i)(ii)(bb), shall apply only if the customer's place of primary use is located within the boundaries of the political subdivision levying such CMRS emergency telephone service charge. "

MAINE

Maine does not currently collect E-911 surcharges from prepaid companies. The Maine Legislature has directed the Maine PUC to look into ways in which the state could collect the surcharge from prepaid providers.

Relevant Statutes: Title 25, Chapter 352, Section 2927

<http://janus.state.me.us/legis/statutes/25/title25ch352.pdf>

"1-B The activities authorized under this chapter are funded through a special statewide E-9-1-1 surcharge levied on each residential and business telephone exchange line, including private branch exchange lines and Centrex lines, cellular or wireless telecommunications service subscribers and semipublic coin and public access lines. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines or numbers per customer billing account. In the case of cellular or wireless telecommunications service subscribers, the place of residence of those subscribers must be determined according to the sourcing rules for mobile telecommunications services set forth in Title 36, section 1816. The statewide E-9-1-1 surcharge is 50 cents per month per line or number. The statewide E-9-1-1 surcharge must be billed on a monthly basis by each local exchange telephone utility or cellular or wireless telecommunications service provider and be shown separately as a statewide E-9-1-1 surcharge on the customer's bill."

MARYLAND

Maryland's surcharge legislation is defined broadly to require any "communication device that connects a caller dialing the digits 911 to a PSAP" to collect and remit the E-911 fee. The surcharge is to be collected **per monthly bill**. TracFone **was** remitting the surcharge but ceased to do so as of October 2003. TracFone argued that it did not need to remit the surcharge because it does not bill monthly as other wireless providers do and that the surcharge places a severe burden on their business. Maryland's AG office has been trying to resolve the issue with TracFone.

However, many other prepaid companies **do** remit the E-911 surcharge on a monthly basis. These companies calculate the fee based on the National Numbering Plan and they use the local exchange to identify the County portion of our surcharge (25 cents for the state portion and up to 75 cents for the County portion) for every "active" phone number each month.

Maryland has no pending legislation. But the state is considering seeking new legislation in the next session should the problem with TracFone continue.

Relevant Statutes

<http://198.187.128.12/maryland/lpext.dll?f=templates&fn=fs-main.htm&2.0>

§ 1-301 (k) 9-1-1-accessible service.- "9-1-1-accessible service" means telephone service or another communications service that connects an individual dialing the digits 9-1-1 to an established public safety answering point...

§ 1-310 (a) In general.- Each subscriber to switched local exchange access service or CMRS or other 9-1-1-accessible service shall pay a 9-1-1 fee.

(b) Amount; when payable.- The 9-1-1 fee is 25 cents per month, payable when the bill for the telephone service or CMRS or other 9-1-1-accessible service is due.

MASSACHUSETTS

Massachusetts has not aggressively pursued prepaid wireless companies for E-911 surcharge collection. They have hired a new general counsel and some sort of implementing legislation will be one of his chief priorities.

MICHIGAN

In 2006 legislation was introduced and passed in the House HB 5917 require contribution from prepaid. The bill passed the house, but was not moved through the Senate. However, SB 1172 was passed, requiring a report on an equitable competitively neutral funding recommendation for 9-1-1 by Dec. 1, 2006. Several prepaid providers have stopped contributing 911 surcharges and one has file suit against the state for the return of 911 surcharge funds previously paid into it.

Relevant Statutes: 484.1408 Service charge for CMRS connection.

Sec. 408. (1) Except as otherwise provided under subsection (3), starting January 1, 2004, a CMRS supplier or a reseller shall include a service charge of 52 cents per month for each CMRS connection that has a billing address in this state. The CMRS supplier or reseller shall list a service charge authorized under this section as a separate line item on each bill. The service charge shall be listed on the bill as the "operational 9-1-1 charge".

(3) Before July 1, 2004, all CMRS suppliers shall notify the committee in writing whether they will seek reimbursement from the CMRS emergency telephone fund for costs incurred until December 31, 2005 in implementing the wireless emergency service order and this act. If a CMRS supplier elects to seek reimbursement under this subsection, it shall continue to impose the 52 cents per month charge authorized under subsection (1) until December 31, 2005. After December 31, 2005, the CMRS supplier shall impose a service charge of 29 cents per month. A CMRS supplier that notifies the committee in writing that it will not seek reimbursement under this subsection shall impose a charge of 29 cents per month and not seek reimbursement from the fund for costs in implementing the wireless emergency service order and this act incurred after the date of its notice to the committee.

Michigan House Bill No. 5917 (H-1) read:

(2) *Each CMRS supplier or reseller shall [collect] a service charge of 29 cents per month [from] each of its prepaid customers. The CMRS supplier or reseller shall have a 1-time option of selecting 1 of the following methods of determining the amount the CMRS supplier or reseller is required to deposit under subsection (4):*

(a) *By dividing the total earned prepaid revenue received by the CMRS supplier or reseller within the monthly 9-1-1 reporting period by \$50.00 and then multiplying that number by 29 cents.*

(b) *Twenty-nine cents for each active prepaid account of the CMRS supplier or reseller the balance of which is equal to or greater than 29 cents.*

As used in this subsection:

(i) *"active prepaid accounts" means a customer who has recharged or replenished his or her account at least once during the billing period or calendar month or has a sufficient positive balance at the end of each month equal to or greater than 29 cents.*

(ii) *"CMRS reseller" means a provider who purchases telecommunication services from another telecommunication service provider and then resells, uses a component part of, or integrates the purchased services into a mobile telecommunication service.*

(iii) *"earned prepaid revenue" means all new revenue that has been generated from prepaid service accounts since the close of the last billing period or calendar month.* (iv) *"prepaid customer" means a CMRS subscriber who pays in full prospectively for the service and [has 1 of the following: (a) a Michigan telephone number or a Michigan identification number for the service.*

(b) *a service for exclusive use in an automotive vehicle and whose place of primary use is within this state. As used in this sub subparagraph, "place of primary use" means that phrase as defined under 4 USC 124.]*

MINNESOTA

Minnesota's current legislation requires providers to remit the surcharge based on customer lines or trunk equivalents. It is applicable to **any** line that can access 911. Although 2005 legislation directed Minnesota's Department of Commerce to report on a move to a "per number fee" by July 1, 2006, The Commerce report recommended the legislature hold off on that effort for now, and the per number fee was not implemented. TracFone argued that Minnesota should charge a fee of 65 cents per \$50 of sale. Minnesota was concerned that the average user of prepaid service uses only \$17-18 a month thus causing a loss of revenue of several thousand dollars. However, TracFone is **still** paying the surcharge based on customer count (a count that is reported by the provider). The relative success of Minnesota's legislation may be due to the fact that the state enforces the regulation by using the Minnesota Department of Revenue as collection agent.

Relevant Statute:

http://www.911.state.mn.us/PDF/2006_Ch_403_w_ch_260.pdf.

Statute 403.11, Subdivision 1:

Subdivision 1. Emergency telecommunications service fee; account. (a) Each customer of a wireless or wire-line switched or packet-based telecommunications service provider connected to the public switched telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee based upon the number of wired or wireless telephone lines, or their equivalent, to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for 911 emergency telecommunications service, to offset administrative and staffing costs of the commissioner related to managing the 911 emergency telecommunications service program, to make distributions provided for in section 403.113,

and to offset the costs, including administrative and staffing costs, incurred by the State Patrol Division of the Department of Public Safety in handling 911 emergency calls made from wireless phones.

(b) Money remaining in the 911 emergency telecommunications service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner to provide financial assistance to counties for the improvement of local emergency telecommunications services. The improvements may include providing access to 911 service for telecommunications service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the commissioner.

(c) The fee may not be less than eight cents nor more than 65 cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including wireless telecommunications services. With the approval of the commissioner of finance, the commissioner of public safety shall establish the amount of the fee within the limits specified and inform the companies and carriers of the amount to be collected. When the revenue bonds authorized under section 403.27, subdivision 1, have been fully paid or defeased, the commissioner shall reduce the fee to reflect that debt service on the bonds is no longer needed. The commissioner shall provide companies and carriers a minimum of 45 days' notice of each fee change. The fee must be the same for all customers.

(d) The fee must be collected by each wireless or wire-line telecommunications service provider subject to the fee. Fees are payable to and must be submitted to the commissioner monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than \$250 a month is due, or annually if less than \$25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telecommunications service account in the special revenue fund. The money in the account may only be used for 911 telecommunications services.

(e) This subdivision does not apply to customers of interexchange carriers.

(f) The installation and recurring charges for integrating wireless 911 calls into enhanced 911 systems are eligible for payment by the commissioner if the 911 service provider is included in the statewide design plan and the charges are made pursuant to contract.

(g) Competitive local exchanges carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services.

MISSOURI

Missouri does not currently have prepaid wireless legislation.

MISSISSIPPI

Relevant Statutes: Mississippi Code § 19-5-333

<http://198.187.128.12/mississippi/lpext.dll?f=templates&fn=fsmain.htm&2.0>

"...(2)The board shall have the following powers and duties

(a) To collect and distribute a CMRS emergency telephone service charge on each CMRS customer whose place of primary use is within the state. The rate of such CMRS service charge shall be One Dollar (\$1.00) per month per CMRS connection. The CMRS service charge shall have uniform application and shall be imposed throughout the state. The board is authorized to receive all revenues derived from the CMRS service charge levied on CMRS connections in the state and collected pursuant to Section 19-5-335...."

MONTANA

Montana's statute requires that the surcharge be assessed on all 'wireless services', which implicitly includes prepaid services. TracFone filed a protest but the hearings examiner found their protest unwarranted. TracFone is appealing.

Relevant Statutes: Montana Code Annotated 10-4-201

<http://data.opi.state.mt.us/bills/mca/10/4/10-4-201.htm>

(1) Except as provided in 10-4-202:

(a) for basic 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is

imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services; and

(b) for enhanced 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services.

(2) The subscriber paying for exchange access line services is liable for the fees imposed by this section.

(3) The provider shall collect the fees. The amount of the fees collected by the provider is considered payment by the subscriber for that amount of fees.

(4) Any return made by the provider collecting the fees is prima facie evidence of payments by the subscribers of the amount of fees indicated on the return.

NEBRASKA

The Nebraska Public Service Commission has a docket (911-013/PI-96) opened on the issue of prepaid wireless. Comments have been submitted by TracFone, Verizon, OnStar, and Cingular protesting any rulemaking that would extend the surcharge to prepaid providers. The docket is concerned with whether or not the current statute (as set by the Nebraska's Enhanced Wireless 911 Services Act) could be interpreted to be inclusive of Prepaid Wireless companies. The docket is still pending. But because the 'Enhanced Wireless 911 Services Act' does not make an explicit mention of prepaid wireless and requires the surcharge to be submitted monthly by adding the surcharge to each subscriber's bill, it is questionable whether the Commission has statutory authority to impose the assessment on prepaid service. This may become reflective of West Virginia, where Commission action was dismissed due to the language of the statute.

Relevant Statutes: R.S. 86.457

"Each wireless carrier who has a subscriber with a billing address in Nebraska shall collect a surcharge of not more than fifty cents per month per access line. The wireless carrier shall add the surcharge to each subscriber's billing statement. The wireless carrier is not liable for any surcharge not paid by a subscriber and is not obligated to take legal action to collect the surcharge. The surcharge shall appear as a separate line item charge on the subscriber's billing statement and shall be labeled as 'Enhanced Wireless 911 Surcharge' or a reasonable abbreviation of such phrase."

NEVADA

Relevant Statute: NRS 244A.

<http://www.leg.state.nv.us/NRS/NRS-244A.html#NRS244ASec7641>

1. Except as otherwise provided in this section, the board of county commissioners in a county whose population is 20,000 or more but less than 400,000 may, by ordinance, impose a surcharge on:

(a) Each access line or trunk line of each customer to the local exchange of any telephone company providing those lines in the county; and

(b) The mobile telephone service provided to each customer of that service whose place of primary use is in the county, for the enhancement of the telephone system for reporting an emergency in the county.

2. The board of county commissioners of a county whose population is less than 100,000 may not impose a surcharge pursuant to this section unless the board first adopts a 5-year master plan for the enhancement of the telephone system for reporting emergencies in the county. The master plan must include an estimate of the cost of the enhancement of the telephone system and all proposed sources of money for funding the enhancement.

3. The surcharge imposed by a board of county commissioners pursuant to this section:

(a) For each access line to the local exchange of a telephone company, must not exceed 25 cents each month;

(b) For each trunk line to the local exchange of a telephone company, must equal 10 times the amount of the surcharge imposed for each access line to the local exchange of a telephone company pursuant to paragraph (a); and

(c) For each telephone number assigned to a customer by a supplier of mobile telephone service, must equal the amount of the surcharge imposed for each access line to the local exchange of a telephone company pursuant to paragraph (a).

NEW HAMPSHIRE

Relevant Statutes: Chapter 106-H

<http://gencourt.state.nh.us/rsa/html/VII/106-H/106-H-9.htm>

I. The enhanced 911 systems shall be funded through a surcharge to be levied upon each residence and business telephone exchange line, including PBX trunks and Centrex lines, each individual commercial mobile radio service number, and each semi-public and public coin and public access line. No such surcharge shall be imposed upon more than 25 business telephone exchange lines, including PBX trunks and Centrex lines, or more than 25 commercial mobile radio service exchange lines per customer billing account. In the case of local exchange telephone companies, the surcharge shall be contained within tariffs or rate schedules filed with the public utilities commission and shall be billed on a monthly basis by each local exchange telephone company. In the case of an entity which provides commercial mobile radio service the surcharge shall be billed to each customer on a monthly basis and shall not be subject to any state or local tax; the surcharge shall be collected by the commercial mobile radio service provider, and may be identified on the customer's bill. Each local exchange telephone company or entity which provides commercial mobile radio service shall remit the surcharge amounts on a monthly basis to the enhanced 911 services bureau, which shall be forwarded to the state treasurer for deposit in the enhanced 911 system fund. The state treasurer shall pay expenses incurred in the administration of the enhanced 911 system from such fund. Such fund shall not lapse. If the expenditure of additional funds over budget estimates is necessary for the proper functioning of the enhanced 911 system, the department of safety may request, with prior approval of the fiscal committee of the general court, the transfer of funds from the enhanced 911 system fund to the department of safety for such purposes. The moneys in the account shall not be used for any purpose other than the development and operation of enhanced 911 services, in accordance with the terms of this chapter. Surcharge amounts shall be reviewed after the budget has been approved or modified, and if appropriate, new tariffs or rate schedules shall be filed with the public utilities commission reflecting the surcharge amount.

II. Imposition of the enhanced 911 services surcharge shall begin not later than 4 months from the approval of the budget, in order to provide adequate funding for the development of the enhanced 911 data base and other operations necessary to the development of the enhanced 911 system.

NEW JERSEY

New Jersey does not currently collect E-911 surcharges from prepaid wireless providers.

NEW MEXICO

Relevant Statutes: Chapter 63, Section 9D-9.2

<http://www.conwaygreene.com/NewMexico.htm>

"(A) There is imposed a wireless enhanced 911 surcharge in the amount of fifty-one cents (\$.51) that shall commence with the first billing period of each subscriber on or following ninety days after July 1, 2001.

(B.) Commercial mobile radio service providers shall be required to bill and collect the wireless enhanced 911 surcharge from their subscribers whose places of primary use, as defined in the federal Mobile Telecommunications Sourcing Act, are in New Mexico. The wireless enhanced 911 surcharge required to be collected by the commercial mobile radio service provider shall be added to and stated clearly and separately in the billings to the subscriber. The wireless enhanced 911 surcharge collected by the commercial mobile radio service provider shall not be considered revenue of the commercial mobile radio service provider."

NORTH CAROLINA

A bill has been introduced (H.B. 1261) which has been adopted in the North Carolina House and sent to the North Carolina Senate. The bill was referred to the Senate Committee on Commerce. In the House, the bill passed 108-0.

Relevant Statutes: § 62A-23

http://www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter_62a.html

§ 62A-23. Amount of service charge.

(a) The rate of the monthly wireless Enhanced 911 service charge shall be set at seventy cents (70¢) per month per each CMRS connection beginning October 1, 2005. The service charge shall have uniform application and shall be imposed throughout the State.

(b) The Board may adjust the service charge on July 1 of every even-numbered year. The Board is to set the service charge at such a rate as to ensure full recovery for CMRS providers and for primary PSAPs, over a reasonable period of time, of the costs allowed in G.S. 62A-25(b) and associated with developing and maintaining a wireless Enhanced 911 system. If necessary to ensure full recovery of costs for both CMRS providers and eligible primary PSAPs over a reasonable period of time, the Board may annually adjust the allocation percentages set forth in G.S. 62A-25(a) and G.S. 62A-25(b), or reallocate funds comprising the Wireless Fund, provided, however, that any adjustment or reallocation shall be consistent with the requirements of the FCC Order.

(b1) The service charge shall also be imposed upon prepaid wireless telephone service subscribers. CMRS providers of prepaid wireless telephone service shall collect and remit to the Board the service charge under one of the following methods:

(1) The CMRS provider shall collect, on a monthly basis, the service charge from each active prepaid wireless telephone service customer whose account balance is equal to or greater than the amount of the service charge; or

(2) The CMRS provider shall divide the total earned prepaid wireless telephone service revenue received by the CMRS provider with respect to each active prepaid wireless telephone service customer in the State within the monthly 911 reporting period by fifty dollars (\$50.00) and multiply the quotient by the service charge amount.

(c) The service charge shall not exceed eighty cents (80¢) per month.

(d) The Board may adopt other rules and procedures as may be necessary to effect the provisions of this act but may not regulate any other aspect of the provision of wireless Enhanced 911 service, such as technical standards.

(e) No other State agency or local government may levy any additional surcharge relating to the provision of wireless Enhanced 911 service. (1998-158, s. 1; 2003-416, s. 29(b); 2005-439, s. 4.)

OHIO

Ohio currently has legislation that collects the surcharge from prepaid providers. Ohio uses Tennessee's methodology for collecting the surcharge but also allows for prepaid providers to collect at the point of sale as an alternative method for collection.

Relevant Statutes: Sec. 4931.61 (As amended by HB 361)

<http://www.legislature.state.oh.us/search.cfm>

(A) Beginning on the first day of the third month following the effective date of this section and ending December 31, 2008, there is hereby imposed, on each wireless telephone number of a wireless service subscriber who has a billing address in this state, a wireless 9-1-1 charge of thirty-two cents per month. The subscriber shall pay the wireless 9-1-1 charge for each such wireless telephone number assigned to the subscriber. Each wireless service provider and each reseller of wireless service shall collect the wireless 9-1-1 charge as a specific line item on each subscriber's monthly bill. The line item shall be expressly designated "State/Local Wireless-E911 Costs (\$0.32/billed number)." If a provider bills a subscriber for any wireless enhanced 9-1-1 costs that the provider may incur, the charge or amount is not to appear in the same line item as the state/local line item. If the charge or amount is to appear in its own, separate line item on the bill, the charge or amount shall be expressly designated "[Name of Provider] Federal Wireless-E911 Costs." For any subscriber of prepaid wireless service, a wireless service provider or reseller shall collect the wireless 9-1-1 charge in any of the following manners:

(1) At the point of sale. For purposes of prepaid wireless services, point of sale includes the purchasing of additional minutes by the subscriber along with any necessary activation of those minutes.

(2) If the subscriber has a positive account balance on the last day of the month and has used the service during that month, by reducing that balance not later than the end of the first week of the following month by the amount of the charge or an equivalent number of air time minutes;

(3) By dividing the total earned prepaid wireless telephone revenue from sales within this state received by the wireless service provider or reseller during the month by fifty, multiplying the quotient by thirty-two cents, and remitting this amount pursuant to division (A)(1) of section 4931.62 of the Revised Code.

OKLAHOLMA

Relevant Statutes: §63-2843.1

<http://www.lsb.state.ok.us/OKStatutes/CompleteTitles/os63.rtf>

"A. To provide for processing nine-one-one emergency wireless calls, the board of county commissioners of a county may by resolution submit to the voters of the county the question of the imposition of a nine-one-one emergency wireless telephone fee for each wireless connection in the county as determined by the subscriber's place of primary use. The resolution shall include the amount of the fee which shall be fifty cents (\$0.50) per month for each wireless connection, and shall call for an election to be held within one (1) year from the date the resolution is adopted. If a majority of the votes cast in an election held approve the imposition of an emergency telephone fee, the fee shall be imposed. A political subdivision may not impose another fee on a wireless service provider or subscriber for nine-one-one emergency service. The proceeds of the fee shall be utilized to pay for the operation of emergency wireless telephone service as specified in this section."

OREGON

Relevant Statutes: 401.792

<http://www.leg.state.or.us/ors/401.html>

"(1) There is imposed on each paying retail subscriber who has telecommunication services with access to the 9-1-1 emergency reporting system a tax equal to 75 cents per month. The tax shall be applied on a telecommunications circuit designated for a particular subscriber. One subscriber line shall be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity or ownership of customer premise equipment connected to each circuit. For providers of central office based services, the tax shall be applied to each line that has unrestricted connection to the switched network. Those central office based service lines that have restricted connection to the switched network shall be charged based on software design in the central office that restricts the number of station calls to and from the network. For cellular, wireless or other radio common carriers, the tax shall apply on a per instrument basis and only if the subscriber's place of primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state."

PENNSYLVANIA

Relevant Statutes: PA HB 1018 (Act No. 56) Dec. 30, 2003

<http://www.legis.state.pa.us/WU01/LI/BI/BT/2003/0/HB1018P3140.HTM>

" (b) Wireless E-911 surcharge.--Each wireless service customer shall pay a fee, to be known as a wireless E-911 surcharge, in an amount of \$1 per month for each device that provides wireless service for which that customer is billed by a wireless provider for wireless service or receives prepaid wireless telephone service from a wireless provider. Such fee shall be collected apart from, and in addition to, any fee levied by the wireless provider in whole or in part for the provision of 911 services.

(1) Wireless providers shall collect the fee on behalf of the agency as part of their billing process and shall have no obligation to take any legal action to enforce the collection of the surcharge. Such action may be brought by or on behalf of the agency. Annually, upon written request of the agency, each wireless provider shall provide a list of the names and addresses of those wireless service customers carrying a balance that have failed to pay the wireless E-911 surcharge. The wireless provider shall not be liable for such unpaid amounts.

(2) If a wireless provider receives a partial payment for a monthly bill from a wireless service customer, the wireless provider shall apply the payment against the amount the wireless service customer owes the wireless provider first and shall remit to the State Treasurer such lesser amount, if any, as shall result there from.

(3) The fees collected under this subsection shall not be subject to taxes or charges levied by the Commonwealth or any political subdivision of this Commonwealth, nor shall such fees be considered revenue of the wireless provider for any purpose.

(4) In the case of prepaid wireless telephone service, the monthly wireless 911 surcharge imposed by this section shall be remitted based upon each prepaid wireless account in any manner consistent with the provider's existing operating or technological abilities, such as customer address, location associated with the MTN, or reasonable allocation method based upon other comparable relevant data, and associated with Pennsylvania, for each wireless customer with an active prepaid wireless account and has a sufficient positive balance as of the last day of each month, if such information is available."

RHODE ISLAND

Rhode Island does not have any current statute that requires collection from prepaid wireless providers. However, a bill has been submitted to the Rhode Island legislature that intends to collect the surcharge from prepaid providers. The bill is likely to pass and become law by July 2005. The bill uses the Tennessee Method in addition to allowing the provider to use the point-of-sale method.

Relevant Legislation: S 1101 Substitute As Amended, (Section 39-1-62 to be amended by lang. in italics)

(2) The surcharge is hereby determined to be twenty-six cents (\$.26) per wireless phone, *prepaid, cellular, telephony. Voice Over Internet Protocol, satellite, computer, data or data only wireless lines or Internet communication or data instrument device or means which has access to or connects with, activates or interfaces with or any combination of the above with the Rhode Island E-911 Uniform Emergency Telephone system* per month and shall be in addition to the wireless surcharge charged under section 39-21 1-14. *The Twenty-Six cents (\$.26) is to be billed to all wireless telecommunication service providers subscribers or prepaid service customers upon the inception of services...*

...(4) With respect to prepaid wireless telecommunications service providers and customers and notwithstanding anything to the contrary contained in this section, the surcharge shall be collected and remitted to the agency by the prepaid wireless telecommunications service provider under one of the three methods:

(i) the prepaid wireless telecommunication service provider shall collect the surcharge, on a monthly basis, from each active prepaid wireless telecommunication service customer whose account balance is equal to or greater than the amount of the service charge; or

(ii) the prepaid wireless telecommunications service provider shall collect the surcharge on a monthly basis at the point of sale; or

(iii) the prepaid wireless telecommunications service provider shall divide the total earned prepaid wireless telephone revenue received by the prepaid wireless telecommunication service provider within the monthly reporting period by fifty dollars (\$50.00) and multiply the quotient by the amount of the surcharge.

The surcharge amount or an equivalent number of air-time minutes may be reduced from a prepaid wireless telecommunication service customer's account when direct billing is not possible.

SOUTH CAROLINA

South Carolina gives its State Budget and Control Board the prerogative to calculate the CMRS 911 charge. The State's Budget and Control Board 911 Staff and the CMRS Emergency Telephone Advisory Committee is considering proposing an amendment to their statutes to clarify the issue with regard to prepaid wireless service. The proposed amendment uses the Tennessee Method. Below are the current statute and the proposed amendment.

Relevant Statutes: Chapter 47, Section 23-47

SECTION 23-47-50. (F) Fees collected by the service supplier pursuant to this section are not subject to any tax, fee, or assessment, nor are they considered revenue of the service supplier. A monthly CMRS 911 charge is levied for each CMRS connection for which there is a mobile identification number containing an area code assigned to South Carolina by the North American Numbering Plan Administrator. The amount of the levy must be approved annually by the board at a level not to exceed the average monthly telephone (local exchange access facility) 911 charges paid in South Carolina. The board and the committee may calculate the CMRS 911 charge based upon a review of one or more months during the year preceding the calculation of telephone (local exchange access facility) charges paid in South Carolina. The CMRS 911 charge must have uniform application and must be imposed throughout the State; however, trunks or service lines used to supply service to CMRS providers shall not be subject to a CMRS 911 levy. On or before the twentieth day of the second month succeeding each monthly collection of the CMRS 911 charges, every CMRS provider shall

file with the Department of Revenue a return under oath, in a form prescribed by the department, showing the total amount of fees collected for the month and, at the same time, shall remit to the department the fees collected for that month. The department shall place the collected fees on deposit with the State Treasurer. The funds collected pursuant to this subsection are not general fund revenue of the State and must be kept by the State Treasurer in a fund separate and apart from the general fund to be expended as provided in Section 23-47-65.

PROPOSED AMENDMENT TO SECTION 23-47-50 (b) The service CMRS 911 charge shall also be imposed upon customers who pay for service prospectively (prepaid subscribers). CMRS providers shall remit to the board the CMRS 911 charge under one of two methods:

(1) The CMRS provider shall collect, on a monthly basis, the service CMRS 911 charge from each active prepaid subscriber whose account balance is equal to or greater than the amount of the service CMRS 911 charge; or

(2) The CMRS provider shall divide the total earned prepaid wireless telephone revenue received by the CMRS provider within the monthly 911 reporting period by fifty dollars (\$50), and multiply the quotient by the service CMRS 911 charge amount.

SOUTH DAKOTA

South Dakota does not currently collect from pre-paid wireless providers.

TENNESSEE

Tennessee does collect 911 surcharges from prepaid wireless companies. Its methodology for collection has been the model for many states. However, the Tennessee model relies largely on the honor system. It does require wireless carriers to report an account of the amounts billed and collected, but includes no enforcement measures for that provision. Additionally, the state has implemented a biennial audit procedure for carriers who opt for state reimbursement for implementation and operating costs of wireless E-911 service. But not all carriers seek this reimbursement and thus are not held to the audit requirement.

Relevant Statutes: TCA 7-86-108, Public Act, Chapter No. 205

<http://www.state.tn.us/commerce/911/pdf/ECBStatuteAuthorization.pdf>

"The service charge shall also be imposed upon customers who pay for service prospectively (prepaid customers). CMRS providers shall remit to the board the service charge under one of two methods:

c) The CMRS provider shall collect, on a monthly basis, the service charge from each active prepaid customer whose account balance is equal to or greater than the service charge; or

d) The CMRS provider shall divide the total earned prepaid wireless telephone revenue received by the CMRS provider within the monthly 911 reporting period by 50 dollars, and multiply the quotient by the service charge amount.

TEXAS

Relevant Statutes: Chapter 771 Health & Safety Code: Sec. 771.0711

<http://www.911.state.tx.us/browse.php/legislation>

(a) To provide for automatic number identification and automatic location identification of wireless 9-1-1 calls, the commission shall impose on each wireless telecommunications connection a 9-1-1 emergency service fee. A political subdivision may not impose another fee on a wireless service provider or subscriber for 9-1-1 emergency service.

(b) A wireless service provider shall collect the fee in an amount equal to 50 cents a month for each wireless telecommunications connection from its subscribers and shall pay the money collected to the comptroller not later than the 30th day after the last day of the month during which the fees were collected. The comptroller may establish alternative dates for payment of fees under this section. The wireless service provider may retain an administrative fee of one percent of the amount collected. The comptroller shall deposit the money from the fees to the credit of the 9-1-1 services fee account. Until deposited to the credit of the 9-1-1 services fee account as required by Subsection (c), money the comptroller collects under this subsection remains in a trust fund with the state treasury.

UTAH

Relevant Statutes: Utah Code Title 69, Chapter 02, Section 5.6

http://www.le.state.ut.us/~code/TITLE69/69_02.htm

"(1) Subject to Subsection 69-2-5(3)(g), there is imposed a statewide unified E-911 emergency service charge of 13 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to an emergency services telephone charge levied by a county, city, or town under Section 69-2-5 or 69-2-5.5.

(2) The emergency services telephone charge imposed under this section shall be:

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(a) subject to Subsection 69-2-5(3)(g);

(b) billed and collected by the person that provides:

(i) local exchange service switched access line services; or

(ii) radio communications access line services;"

VERMONT

Vermont does not currently have prepaid collection legislation.

VIRGINIA

Virginia first addressed the issue of prepaid wireless surcharges in 2003. The state revised its legislation in April (effective July 1, 2005). The original legislation provided the carrier with two methods of collection: point of sale and a monthly \$.75 charge per subscriber. (The latter method was to be remitted regardless of whether the provider could collect from customers.) TracFone requested a change be implemented because it felt the two methods were unfair. According to TracFone, customers may not use the phone for an extended period of time and so, even though TracFone would be receiving no revenue, the provider would still be required to pay the \$.75. The July 1, 2005 revision added a third methodology (The Tennessee method) which divides their total revenue by \$50 and multiplies the result by \$.75. Virginia has had success with its legislation and reports full compliance with remittance.

Relevant Statutes: Code 56-484.17(B)

"For CMRS customers who purchase CMRS service on a prepaid basis, the wireless E-911 surcharge shall be determined according to one of the following methodologies below:

a. The CMRS provider shall collect, on a monthly basis, the wireless E-911 surcharge from each active prepaid customer whose account balance is equal to or greater than the amount of the surcharge; or

b. The CMRS provider shall divide its total earned prepaid wireless telephone revenue with respect to prepaid customers in the Commonwealth within the monthly E-911 reporting period by fifty dollars (\$50), multiply the quotient by the surcharge amount, and pay the resulting amount to the Board without collecting a separate charge from its prepaid customers for such amount."

c. The CMRS provider and CMRS reseller shall collect the surcharge at the point of sale.

Collection of the wireless E-911 surcharge from or with respect to prepaid customers shall not reduce the sales price for purposes of taxes which are collected at point of sale.

WASHINGTON

Washington statute applies the E-911 surcharge through an E-911 excise tax imposed on **all** radio access lines. The amount is set at \$.20 per month for each radio access line. The Washington State method is unique in its use of an excise tax rather than a state imposed fee on consumers' bills. The Washington State Department of Revenue collects the excise taxes and says that it is the responsibility of the carrier, or carrier's representative, to guarantee collection for all access lines, regardless of how the consumer pays. Carriers are inconsistent in collecting from prepaid and one reseller of services has claimed prepaid is exempt. Washington's Department of Revenue is pursuing the matter.

Relevant Statutes: RCW 82.14B.030

<http://www.leg.wa.gov/RCW/index.cfm?section=82.14B.030&fuseaction=section>

"(4) A state enhanced 911 excise tax is imposed on all radio access lines whose place of primary use is located within the state in an amount of twenty cents per month for each radio access line. The tax shall be uniform for each radio access line. The tax imposed under this section shall be remitted to the department of

revenue by radio communications service companies, including those companies that resell radio access lines, on a tax return provided by the department. Tax proceeds shall be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540. The tax imposed under this section is not subject to the state sales and use tax or any local tax."

WEST VIRGINIA

On the urging of the West Virginia E-911 Council, the West Virginia Public Services Commission opened up a docket (04-1285) ordering the investigation of collection of E-911 surcharges from prepaid wireless services. The Order referred the matter to commission staff and required the Division of Administrative Law Judges to issue a recommended decision by May 5, 2005. Commission staff recommended that the issue be dismissed due to the vagueness of the West Virginia statute for E-911 surcharges on CMRS providers and noted that the matter would be better suited for legislative action. The West Virginia PSC followed the staff's recommendation and dismissed the matter.

WISCONSIN

According to the Wisconsin statute, the Wisconsin Public Service Commission is given the prerogative to set the surcharge for prepaid wireless providers in administrative rules. The current set rule uses the Tennessee Method.

Relevant Statutes: Wisc. Statute: §146.70(3m)(f) & Administrative Rules: PSC 173.10(3)

§ 146.70(3m)(f) Wireless surcharge. 1. The commission shall promulgate rules requiring each wireless provider to impose the same monthly surcharge for each telephone number of a customer that has a billable address in this state, except that the rules shall adjust the amount of the surcharge that is imposed on customers who prepay for service to ensure that such customers pay an amount that is comparable to the monthly amount paid by other customers. The rules shall require the surcharge to be imposed during the 3-year period beginning on the first day of the 2nd month beginning after the effective date of the rules. The amount of the surcharge shall be sufficient for the commission to administer and make the grants under par. (d) and the supplemental grants under par. (e). The rules shall require wireless providers to pay the surcharge to the commission for deposit in the wireless 911 fund.

2. The commission may promulgate rules that increase or decrease the surcharge, except that the commission may not increase the surcharge more than once per year and any increase must be uniform statewide.

3. A wireless provider shall identify the surcharge on a customer's bill on a separate line that consists of the words "federal wireless 911 mandate fee."

4. The commission may bring an action to collect a surcharge that is not paid by a customer and the customer's wireless provider is not liable for the unpaid surcharge.

"PSC 173.10(3)(b)(2). For a customer with prepaid wireless telephone service, the wireless provider shall charge to that customer's prepaid account using one of the following methods:

a. The provider shall charge the prepaid account the amount of the monthly surcharge when the telephone becomes an active prepaid wireless telephone, provided the balance of the prepaid account is greater than or equal to the monthly wireless surcharge.

b. The provider shall divide the total prepaid wireless telephone revenue earned and received in the state a calendar month during the surcharge period by fifty dollars (\$50), and multiply the quotient by the monthly wireless surcharge

(c) Each wireless provider shall pay the full amount of the surcharge collected to the commission within 30 days of the end of the month in which the surcharge was collected for deposit in the fund. A wireless provider may not withhold any portion of the surcharge it collects as reimbursement for the cost of billing and collecting the surcharge, or for any other purpose. A wireless provider may include reasonable administrative costs as part of its grant application under s. PSC 173.06.

WYOMING

Relevant Statutes: Title 16, Chapter 9, Article 1

<http://legisweb.state.wy.us/statutes/titles/title16/chapter09.htm>

"(b) In accordance with the provisions of this subsection, and after a public hearing the governing body may, by ordinance in the case of cities and by resolution in the case of counties or special districts, impose a monthly uniform tax on service users within its designated 911 service area in an amount not to exceed

seventy-five cents (\$.75) per month on each local exchange access line, per wireless communications access or other technological device that under normal operation is designed or routinely used to access 911. Only one (1) governing body may impose a 911 emergency tax for each 911 system. Regardless of the level at which the tax is set, if an assessment is made on both local exchange access facilities and wireless communications access, the amount of the tax imposed per local exchange access facility and the amount of the tax imposed per wireless communications access or access by other technological device that under normal operation is designed or routinely used to access 911, shall be equal. The proceeds of the 911 emergency tax shall be set aside in an enterprise fund or other separate accounts from which the receipts shall be used to pay for the 911 system costs authorized in W.S. 16-9-105, and may be imposed at any time following the execution of an agreement with the provider of the service at the discretion of the governing body. "

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